
HOUSE BILL No. 1136

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-29; IC 6-2.5-6-17; IC 6-8.1-9-3.

Synopsis: Tourism. Authorizes the office of tourism development to enter into an agreement for an annual sales tax rebate with the operator of a new tourism attraction (operator). Requires the operator to incur qualified costs of at least \$5,000,000 in the development of the tourism attraction. Provides that a person may not claim a rebate in more than 10 calendar years. Provides that an annual rebate is the lesser of: (1) 25% of the total amount of sales taxes remitted by all retail merchants at the tourism attraction in the preceding calendar year; or (2) 2.5% of the operator's qualified costs. Establishes procedures for claiming rebates. Appropriates money to the department of state revenue for the payment of rebates.

Effective: July 1, 2008.

Cochran, Goodin, Dobis, Espich

January 8, 2008, read first time and referred to Committee on Small Business and Economic Development.

C
o
p
y



Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE BILL No. 1136

A BILL FOR AN ACT to amend the Indiana Code concerning economic development and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-29-1-4.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2008]: **Sec. 4.5. "Entertainment destination center" means either**
4 **of the following:**

5 **(1) A facility containing at least one hundred thousand**
6 **(100,000) square feet of building space that:**

7 **(A) is adjacent or complementary to an existing tourism**
8 **attraction, a tourism attraction being developed under**
9 **IC 5-29-5, or a convention facility; and**

10 **(B) provides the patrons of the facility a variety of leisure**
11 **and entertainment options, including:**

12 **(i) at least one (1) major themed restaurant; and**

13 **(ii) at least three (3) additional entertainment venues,**
14 **including live entertainment facilities, multiplex theaters,**
15 **large format theaters, motion simulators, family**
16 **entertainment centers, concert halls, virtual reality or**
17 **other interactive games, museums, exhibitions, or other**



C
o
p
y

cultural or leisure time activities.

(2) A convention center and meeting conference center that:

(A) is owned by a municipal corporation (as defined in IC 36-1-2-10); and

(B) contains at least forty thousand (40,000) square feet of building space.

SECTION 2. IC 5-29-1-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. "Person" means any association, corporation, limited liability company, fiduciary, individual, joint stock company, joint venture, partnership, sole proprietorship, or other private legal entity.

SECTION 3. IC 5-29-1-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. "Qualified costs" means the following costs incurred in the development of a tourism attraction:

(1) Any cost incurred to acquire any necessary property, easement, or right-of-way.

(2) Engineering or architectural fees, legal fees, accountants' fees, and financial advisers' fees.

(3) Any cost incurred for preliminary planning to determine the economic or engineering feasibility of a proposed tourism attraction.

(4) The costs of:

(A) economic investigations and studies;

(B) surveys;

(C) the preparation of designs, plans, working drawings, and specifications; and

(D) the inspection and supervision of the construction or rehabilitation of real property for the tourism attraction.

(5) Any cost incurred to install utilities.

(6) Construction costs, including costs incurred for:

(A) site preparation;

(B) the demolition of existing structures;

(C) the construction, reconstruction, alteration, repair, or rehabilitation of the real property; and

(D) all other connected work.

(7) Any cost incurred in equipping or furnishing the tourism attraction.

(8) Insurance premiums or any other cost incurred to fund any liability, other loss, or insurance reserves or the funding and contribution of such insurance reserves or other capital

C
o
p
y



to a risk retention group to provide insurance coverage against liability claims or other losses.

SECTION 4. IC 5-29-1-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 8. "Qualified tourism attraction" means a tourism attraction that is subject to an agreement entered into with the office under IC 5-29-5-4.**

SECTION 5. IC 5-29-1-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 9. (a) "Tourism attraction" means any of the following:**

- (1) A cultural or historic site.**
- (2) A recreation or entertainment facility that is not excluded by subsection (b).**
- (3) An area of natural phenomenon or scenic beauty.**
- (4) An entertainment destination center.**
- (5) An amusement park.**
- (6) A water park.**
- (7) A paved track that is used primarily in the sport of auto racing and any facilities that are adjacent to and used in connection with the operation of the track.**
- (8) A winery.**

(b) The term does not include any of the following:

- (1) A racetrack or satellite facility licensed under IC 4-31.**
- (2) A riverboat licensed under IC 4-33.**
- (3) A slot machine facility licensed under IC 4-35.**
- (4) A facility located in a professional sports development area established under IC 36-7-31 or IC 36-7-31.3.**
- (5) A lodging or dining facility unless the facility is located in an entertainment destination center.**
- (6) A retail facility other than a gift shop or other retail operation that is operated as a subordinate part of an entertainment destination center or other tourism attraction.**
- (7) A recreational facility that is not operated as a visitor destination.**

SECTION 6. IC 5-29-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 5. Incentives for the Development of Tourism Attractions

Sec. 1. A person that proposes to operate a tourism attraction to create new jobs in Indiana may apply to the office to enter into an

C
o
p
y



1 agreement for a state gross retail tax rebate under this chapter.
 2 The director shall prescribe the form of the application.

3 Sec. 2. After receipt of an application, the office may enter into
 4 an agreement with the applicant for a state gross retail tax rebate
 5 under this chapter if the office determines that the following
 6 conditions exist:

7 (1) The applicant's tourism attraction project will create new
 8 jobs that were not jobs previously performed by employees of
 9 the applicant in Indiana.

10 (2) The applicant's tourism attraction project is economically
 11 sound and will benefit the citizens of Indiana by increasing
 12 opportunities for employment in Indiana and strengthening
 13 the economy of Indiana.

14 (3) Receiving the state gross retail tax rebate is a major factor
 15 in the applicant's decision to develop the tourism attraction in
 16 Indiana, and not receiving the state gross retail tax rebate will
 17 result in the applicant deciding not to develop the tourism
 18 attraction in Indiana.

19 (4) Awarding the state gross retail tax rebate will result in an
 20 overall positive fiscal impact to the state, as certified by the
 21 office of management and budget using the best available
 22 data.

23 (5) The office determines that the applicant's total qualified
 24 costs will exceed five million dollars (\$5,000,000).

25 (6) At least twenty-five percent (25%) of the visitors to the
 26 applicant's tourism attraction will be residents of other states.

27 (7) The state gross retail tax rebate is not prohibited by
 28 section 3 of this chapter.

29 Sec. 3. A person may not receive a state gross retail tax rebate
 30 under this chapter for expenses incurred to relocate from one (1)
 31 site in Indiana to another site in Indiana. Determinations under
 32 this section shall be made by the office.

33 Sec. 4. If the office determines that all of the conditions
 34 described in section 2 of this chapter exist, the office shall enter
 35 into an agreement with the applicant. The agreement must include
 36 the following:

37 (1) A detailed description of the applicant's proposed tourism
 38 attraction.

39 (2) A detailed listing of each retail merchant who will make
 40 retail transactions at the tourism attraction.

41 (3) A requirement that the person shall maintain operations
 42 at the tourism attraction for at least two (2) years following

C
o
p
y



the last calendar year in which the person receives a state gross retail tax rebate under this chapter.

(4) A statement that a taxpayer is subject to an assessment under section 8 of this chapter for noncompliance with the requirement described in subdivision (3).

(5) A requirement that the person shall provide written notification to the director and the department of state revenue not more than thirty (30) days after the person makes or receives a proposal that would transfer the person's obligations under this chapter or IC 6-2.5 to another person.

Sec. 5. A person who:

(1) enters an agreement with the office under section 4 of this chapter; and

(2) complies with the requirements of this chapter and IC 6-2.5-6-17;

is entitled to a state gross retail tax rebate under this chapter for the development of the person's qualified tourism attraction.

Sec. 6. The amount of a state gross retail tax rebate awarded under this chapter for a particular calendar year is equal to the amount determined under STEP SIX of the following formula:

STEP ONE: Determine the total amount of the qualified costs incurred by the person in the development of the person's qualified tourism attraction.

STEP TWO: Multiply the STEP ONE amount by twenty-five percent (25%).

STEP THREE: Divide the STEP TWO result by ten (10).

STEP FOUR: Determine the total amount of state gross retail taxes remitted by all retail merchants making retail transactions at the tourism attraction in the preceding calendar year.

STEP FIVE: Multiply the STEP FOUR amount by twenty-five percent (25%).

STEP SIX: Determine the lesser of:

(A) the STEP THREE quotient; or

(B) the STEP FIVE result.

Sec. 7. (a) A person is first eligible to receive a state gross retail tax rebate awarded under this chapter following the first full calendar year of operations at the person's qualified tourism attraction.

(b) A person may not receive a state gross retail tax rebate under this chapter for more than ten (10) calendar years.

(c) IC 6-2.5-6-17 applies to all state gross retail tax rebates

C
o
p
y



awarded under this chapter.

Sec. 8. If the department of state revenue or the office determines that a person that has received a state gross retail tax rebate under this chapter is not entitled to the rebate because of the person's:

(1) noncompliance with the requirements of the person's state gross retail tax rebate agreement; or

(2) failure to comply with all the provisions of this chapter; the department or the office shall, after giving the person an opportunity to explain the noncompliance, impose an assessment on the person in an amount that may not exceed the sum of any previously allowed state gross retail tax rebates under this chapter together with interest and penalties required or permitted by law.

Sec. 9. (a) Before July 1, the director shall annually submit a report to the lieutenant governor on the state gross retail tax rebate program under this chapter. The report must include:

(1) information on the number of agreements that were entered into under this chapter during the preceding calendar year;

(2) a description of each qualified tourism attraction developed under this chapter during the preceding calendar year;

(3) an update on the status of qualified tourism attractions developed under agreements entered into before January 1 of the preceding calendar year;

(4) an assessment of the effectiveness of the program in creating new jobs in Indiana;

(5) an assessment of the effect of the program on state tax revenues; and

(6) the sum of the state gross retail tax rebates awarded under this chapter in the preceding calendar year.

(b) A copy of the report required under subsection (a) shall be transmitted in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly.

SECTION 7. IC 6-2.5-6-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 17. (a)** To receive a state gross retail tax rebate awarded under IC 5-29-5 for a particular calendar year, a person must:

(1) file a claim:

(A) with the department;

**C
O
P
Y**



(B) on a form prescribed by the department; and

(C) on or before April 15 of the immediately succeeding calendar year; and

(2) submit to the department proof of all information that the department determines is necessary for the calculation of the rebate amount under IC 5-29-5-6.

(b) If the department receives a claim for a rebate under this section, the department shall consider the claim and may hold a hearing on the claim to obtain and consider additional evidence. After considering the claim and all evidence relevant to the claim, the department shall issue a decision on the claim, stating the part, if any, of the rebate allowed and containing a statement of the reasons for any part of the rebate that is denied. The department shall mail a copy of the decision to the person who filed the claim. If the department allows the full amount of the rebate claim, a warrant for the payment of the claim is sufficient notice of the decision.

(c) If the person disagrees with any part of the department's decision, the person may appeal the decision. The person must file the appeal with the tax court. The tax court does not have jurisdiction to hear a rebate appeal suit if:

(1) the appeal is filed more than three (3) years after the date the claim for a rebate is filed with the department;

(2) the appeal is filed more than ninety (90) days after the date the department mails the decision of denial to the person; or

(3) the appeal is filed both before the decision is issued and before the one hundred eighty-first day after the date the person files the claim for a rebate with the department.

(d) The tax court shall hear the appeal de novo and without a jury and, after the hearing, may order or deny any part of the appealed rebate. The court may assess the court costs in any manner that it feels is equitable.

(e) An amount sufficient to pay the state gross retail tax rebates provided under this section is annually appropriated from the state general fund to the department.

SECTION 8. IC 6-8.1-9-3, AS AMENDED BY P.L.111-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) This chapter does not apply to refund claims made for gasoline taxes under IC 6-6-1.1, special fuel taxes under IC 6-6-2.5, or the motor vehicle excise tax (excluding interest and penalties) under IC 6-6-5.

(b) This chapter does not apply to a state gross retail tax rebate

**C
o
p
y**



1 awarded under IC 5-29-5.

**c
o
p
y**

